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10/524,601	02/14/2005	Yusei Nishimoto	U 015632-2	6567
140	7590	11/21/2007	EXAMINER	
LADAS & PARRY			CHAI, LONGBIT	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/524,601	Applicant(s) NISHIMOTO ET AL.	
	Examiner Longbit Chai	Art Unit 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 0200.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. Currently pending claims are 1 – 20.

### *Response to Arguments*

2. Applicant's arguments with respect to the subject matter of the instant claims have been fully considered but are not persuasive.
3. As per each independent claim (except claim 5), Applicant asserts Mark fails to teach "the information indicative of an elapsed time of the contents is arranged such that the time count indicates a first time length accrued as the preview time for passage of a predetermined time length on the time axis of the contents at a first portion of the contents, and indicates a second time length accrued as the preview time for passage of the same predetermined time length on the time axis of the contents at a second portion of the contents, said first time length being different from the second time length" (Remarks: Page 14). Examiner respectfully disagrees because Mark teaches, unlike the conventional technology, the preview is not restricted to the portion of the beginning of service, and the period of a free preview is variable and can be formed on a program by program basis by specifying as a program attribute (or maximum available free preview time) – Examiner notes the first time length is different from the second time length because each of the specific time lengths can be variable (including the specific maximum free preview times) (Mark: Page 15 / Para [0050]).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A person shall be entitled to a patent unless –

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 4, 6 and 8 – 17 and 19 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bando et al. (U.S. Patent 5,774,548), in view of Eyer Mark et al. (JAPAN 08-237632, September 1996).

As per claim 1, 2 and 9, Bando teaches a method of transmitting contents, which are to be received at a reception side where a portion of the contents is previewed while the contents are not accessible for playing other than for a preview purpose, comprising the steps of:

encrypting the contents by a first encryption key (Bando: Figure 2 and Column 1 Line 34 – 51:  $K_s = 1^{st}$  encryption key);

encrypting the first encryption key and the information indicative of a program attribute by a second encryption key (Bando: Figure 2 and Column 1 Line 36 – 39:  $K_w = 2^{nd}$  encryption key), thereby generating first encrypted information;

encrypting the second encryption key and content-usage control information by a third encryption key (Bando: Figure 2 and Column 1 Line 34 – 51:  $K_m = 3^{rd}$  encryption

key and content-usage control information is considered as part of the contract information), thereby generating second encrypted information, said content-usage control information indicating usage of the contents on the reception side; and transmitting the encrypted contents, the first encrypted information, and the second encrypted information to the reception side (Bando: Figure 2).

Bando teaches encrypting the first encryption key and the information indicative of a program attribute by a second encryption key (see above). However, Bando does not disclose expressly encrypting the first encryption key and the information indicative of an elapsed time of the contents by a second encryption key; and generating information indicative of an elapsed time of the contents that indicates a relationship between positions on a time axis of the contents representing an amount of time that passes as the contents are played and a time count that accrues as a preview time when the contents are previewed.

Mark teaches encrypting the first encryption key and the information indicative of an elapsed time of the contents by a second encryption key (Mark: Abstract, Para [0050] Line 7 – 8 & Bando: Column 1 Line 36 – 39: (a) the period of a free preview as a variable is included in the program attribute and (b) the 1<sup>st</sup> key (Ks) and the program attribute are encrypted by the 2<sup>nd</sup> key (i.e. Kw) – see above); and

generating information indicative of an elapsed time of the contents that indicates a relationship between positions on a time axis of the contents representing an amount of time that passes as the contents are played and a time count that accrues as a preview time when the contents are previewed (Mark: Para [0004] Line 9 – 10 and Para

[0005] Line 8 – 10: the viewer's preview time is accumulated and the intact preview time left-over is tracked to prevent exceeding the maximum allowed preview time, which is considered as usage control information as part of the contract information).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Mark within the system of Bando because (a) Bando teaches encrypting the content scramble key and the information indicative of program attribute using a work key Kw in a digital broadcast transmitting and receiving system (Bando: Column 1 Line 36 – 39) and (b) Mark teaches the allowable period of a free preview as a variable can be included in the program attribute in a digital broadcast transmitting and receiving system (Mark: Para [0050] Line 7 – 8, Para [0004] and Para [00005]).

Mark in view of Bando teaches:

wherein the information indicative of the elapsed time of the contents is arranged such that the time count indicates a first time length accrued as the preview time for passage of a predetermined time length on the time axis of the contents at a first portion of the contents, and indicates a second time length accrued as the preview time for passage of the predetermined time length on the time axis of the contents at a second portion of the contents, the first time length being different from the second time length (Mark: Page 15 / Para [0050]: Mark teaches, unlike the conventional technology, the preview is not restricted to the portion of the beginning of service, and the period of a free preview is variable and can be formed on a program by program basis by specifying as a program attribute (or maximum available free preview time) – Examiner

notes the first time length is different from the second time length because each of the specific time lengths can be variable (including the specific maximum free preview times))

As per claim 10, 11 and 20, the claim limitations are met as the same reasons as that set forth above in rejecting claim 1, 2 and 9.

As per claim 3, Bando as modified teaches said content-transmission control unit generates the information indicative of an elapsed time of the contents such that said time count linearly corresponds to said time axis of the contents (Mark: Para [0050] Line 7 – 8, Para [0004] and Para [00005]: the information indicative points to the amount of the intact preview time left behind the user and that is considered as a time count linearly corresponds to said time axis of the contents).

As per claim 4, Bando as modified teaches said content-transmission control unit generates the information indicative of an elapsed time of the contents such that said time count is not evenly assigned to the said time axis of the contents (Mark: Para [0050] Line 4 – 5, Para [0004] Line 9 – 10 and Para [0005] Line 8 – 10: this is interpreted as the preview time period can be allocated to any portion of the time-slot of a program and is not restricted to the beginning of a program as long as the accumulated arbitrarily selected time slots (i.e. the remained preview time) should not exceed the maximum allowed preview time).

As per claim 6, Bando as modified teaches a preview-purpose content is attached to the contents at a start of the contents (Mark: Para [0050]).

As per claim 8, Bando as modified teaches said transmission unit transmits the second encrypted information separately from the encrypted contents and the first encrypted information in response to a request from the reception side (Bando: the encrypted EMM message is equivalent to the second encrypted information).

As per claim 12, Bando as modified teaches:

a playing-time counter unit which counts the time count as said portion of the encrypted contents is decoded for playing (Bando: Column 5 Line 59 – 64: charged with elapsed time count); and

a charging unit which charges a fee commensurate with the time count counted by said playing-time counter unit (Bando: Column 59 – 64: the IC card is used for charging fee),

wherein said check unit compares the time count with an authorized-preview time length defined in the content-usage control information, and said charging unit refrains from charging a fee until the time count exceeds the authorized-preview time length (Mark: Para [0050] Line 4 – 5, Para [0004] Line 9 – 10 and Para [0005] Line 8 – 10: the accumulated arbitrarily selected time slots (i.e. the remained preview time) should not exceed the maximum allowed preview time – i.e. an authorized-preview time length).



As per claim 13, Bando as modified teaches said playing-time counter unit counts the time count based on a continuation index that is provided to correspond to a unit time by which said first encryption key changes (Mark: Para [0019] Line 5 : the ECM and Ks key is changed periodically).

As per claim 14, Bando as modified teaches said check unit is provided inside a security module that protects information therein from external access such as to prevent reading of the information (Bando: Column 5 Line 54 – 65: secured IC card).

As per claim 15, Bando as modified teaches said charging unit is provided inside said security module, and generates content-history information by combining the time count counted by the playing-time counter unit with the content-usage control information, said content-history information being paired up with content IDs, which are assigned to respective contents (Bando: Column 5 Line 64 – 67 and Mark: Para [0024] Line 8 – 9 and Para [0026]).

As per claim 16, Bando as modified teaches an encrypting unit which encrypts the content-history information and the second encryption key by use of an inherent key kept inside said security module if the check unit finds that the time count is smaller than the authorized-preview time length, the content-history information and the second encryption key encrypted by said encrypting unit being stored in said content storage unit (Bando: Column 5 Line 53 – 67 and Mark: Para [0024] Line 8 – 9 and Para [0026]:

the master key  $K_m$  is considered as the inherent key and the accounting related information can be stored at the secured IC card).

As per claim 17, Bando as modified teaches the second encrypted information is stored in said content storage unit together with the encrypted contents after encryption by said encrypting unit (Bando: Column 5 Line 53 – 67 and Mark: Para [0024] Line 8 – 9 and Para [0026]: the encrypted contents after encryption can also be watched by using secured IC card and therefore the encrypted contents must be evidently stored in order to monitor properly).

As per claim 19, Bando as modified teaches a request for the second encrypted information is sent to the transmission side via a communication channel if the second encrypted information is not included in the received contents, and a fee for the encrypted contents is charged when said charging unit receives the second encrypted information (Mark: Para [0004] Line 9 – 10 and Para [0005] Line 8 – 10: the request must be made so that the accumulated and remained viewer's preview time can be tracked to prevent exceeding the maximum allowed preview time, which is considered as usage control information as part of the contract information).

5. Claims 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bando et al. (U.S. Patent 5,774,548), in view of Eyer Mark et al. (JAPAN 08-237632, September 1996), and in view of Wasilewski et al. (U.S. Patent 6,252,964).

As per claim 7, Bando as modified does not disclose expressly the content-usage control information includes a purchase flag for indicating whether the contents are purchased or rented on the reception side, said purchase flag being returned from the reception side for confirmation of a payment of a fee for the contents.

Wasilewski teaches the content-usage control information includes a purchase flag for indicating whether the contents are purchased or rented on the reception side, said purchase flag being returned from the reception side for confirmation of a payment of a fee for the contents (Wasilewski : Column 39 Line 8 – 21 and Column 35 Line 59 – 61).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teaching of Mark within the system of Bando as modified because (a) Bando teaches a fee charging method based on the elapsed time watching in a digital broadcast transmitting and receiving system (Bando: Column 5 Line 58 – 64) and (b) Wasilewski teaches the elapsed time watching with respect to a fee charging method can be further depending upon either in a free preview mode or a purchased mode in a digital broadcast transmitting and receiving system (Mark: Column 39 Line 8 – 21 and Column 35 Line 59 – 61).

As per claim 18, Bando as modified teaches said charging unit sends a notice to the transmission side through a communication channel, said notice indicating whether the encrypted contents are purchased or rented (Wasilewski : Column 39 Line 8 – 21).

***Allowable Subject Matter***

6. Claim 5 is allowable.

The following is an examiner's statement of reasons for allowance: The present invention is directed to a method of transmitting contents, which are to be received at a reception side where a portion of the contents is previewed while the contents are not accessible for playing other than for a preview purpose, wherein the content-transmission control unit generates the information indicative of an elapsed time of the contents such that said time count decreases with passage of time on a portion of said time axis of the contents, and increases with passage of time on another portion of said time axis of the contents. The closest prior art, U.S. Pattern 5,774,548 and Eyer Mark et al. (JAPAN 08-237632), fail to anticipate or render obvious the claimed invention.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Longbit Chai whose telephone number is 571-272-3788. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Longbit Chai  
Examiner  
Art Unit 2131

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